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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,130	11/21/2001	Edward J. Florkey	MIDTF-230 P2	2318
26875	7590	10/08/2004	EXAMINER	
WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202			JASTRZAB, KRISANNE MARIE	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 10/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/990,130

Applicant(s)

FLORKEY ET AL.

Examiner

Krisanne Jastrzab

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/30/02.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The Information Disclosure Statement filed 1/30/2002 was entered into the case and has been considered, however, the Examiner would note that failed to identify the proper application. The Examiner corrected the application information thereon based on a review of the cited references and recognition of their pertinence to the instant application.

### ***Specification***

The disclosure is objected to because of the following informalities: the continuing information on the first page of the specification should be updated to correctly reflect the current status of the parent application.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

Claim 35 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation of this claim is incomplete ("...wherein air is purged from the chamber during" is the end of the claim as written). Correction and clarification are required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Thakur et al., U.S. patent No. 5,313,738.

Thakur et al., teach a sterilizing chamber for pressurized sterilization of articles therein, having a planar front surface forming the opening therefor, which cooperates with a door mechanism. An annular resilient seal is provided between the door and the surface of the opening into the chamber such that a lip thereof is biased into sealing engagement therewith when pressure is applied inside the chamber. See column 2, lines 1-5 and 30-40 and column 3, lines 55-63 and column 6, lines 12-25.

Claims 11-13 and 17-37 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Brucker U.S. patent No. 5,223,229.

Brucker teaches a sterilizer having a door mounted adjacent to a front planar surface of the sterilizer chamber, moveable between and open, closed and partially open position cooperating with an chamber inlet in the front planar surface and constructed with a chamber sealing plate and an annular chamber seal. The door is held in position by a catch and latch means mounted in stationary relationship to the chamber and the door, and which is provided with actuating means (column 5, lines 49-65) responsive to conditions within the sterilizing chamber (see column 2, line 45 through column 3, line 10). Brucker further teaches provision of control means for controlling the sequences of steps in the sterilization process, the control means including a microprocessor and sensors registering temperature and pressure within the

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sterilization chamber, as well as sensors registering water levels in a reservoir fluidly connected to the chamber for delivery of water for steam production (see column 3, lines 10-65, column 6, line 47 through column 7, line 33). The control means further controls actuation of the door mechanism and monitors the position thereof. Brucker further discloses means for purging the chamber based on monitored conditions (column 7, lines 19-33).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

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not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 4-5 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brucker '229 in view of Taylor U.S. patent No. 4,441,724.

Brucker is applied as set forth above.

Taylor teaches a resilient sealing means for affecting a seal between the door and chamber opening of a pressurized sterilizer. The sealing mean is provided with dual lips structured to be effective in sealing irregardless of the pressure within the chamber and to resist permanent deformation resulting from pressure changes.

It would have been well within the purview of one of ordinary skill in the art to utilize a resilient sealing means as taught in Taylor in the sterilizer of Brucker because it would provide optimized sealing effectiveness throughout all cycles of the sterilization process.

Claims 2-3 and 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brucker together with Taylor as applied to claims 1, 4-5 and 14-16 above, and further in view of Archambault U.S. patent No. 4,951,693.

Archambault teaches a automatic dishwasher having a pressurized source of cleaning fluid, with a door mechanism having a horizontal opening hinge/latch system wherein the door is partially opened at the completion of the washing cycles to minimize heat requirements of the system to effect drying of the condensation remaining in the dishwasher.

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It would have been obvious to one of ordinary skill in the art to configure the sterilizer door of the combination above, with a horizontal hinge positioning as taught in Archambault because this positioning is recognized as effective in pressurized systems and as such rises to a mere design choice in the construction of the sterilizer. It is noted that in such a configuration, condensation dripping from the door or chamber would intrinsically be inhibited by the seal of the combination above.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krisanne Jastrzab whose telephone number is 571-272-1279. The examiner can normally be reached on Mon.-Wed. 6:30am-4:00pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 571-272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Krisanne Jastrzab  
Primary Examiner  
Art Unit 1744

September 29, 2004